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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,112	03/24/2004	Gerardo Melendrez		4554
7590		12/15/2004		
Kenneth L. Tolar				
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			EXAMINER	
			NGUYEN, CAMTU TRAN	
			ART UNIT	PAPER NUMBER
			3743	
DATE MAILED: 12/15/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/808,112

Applicant(s)

MELENDREZ, GERARDO

Examiner

Camtu T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 9-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This Office Action is in response to applicant's amendment filed on October 18, 2004. Claims 1-8 have been cancelled. Claims 9-26 are newly added. Applicant submitted in the amendment that independent claims 9 and 15 contained limitations indicated as allowable subject matter as indicated in the previous Office Action.

Examiner is regretfully withdrawing claims 3 and 8, indicated in the previous Office Action, as allowable subject matter if rewriting in independent form including all of the limitations of the base claim and any intervening claims.

The claims, as amended, have been carefully considered but not deemed allowable in view of newly discovered references for the reasons below.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 16, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albanes (U.S. Patent No. 5,377,424) in view of Claypool (U.S. Patent No. Design 323,553). Albanes, as modified above, discloses in Figure 1-5 a body drying system comprising elements as recited in these claims but does not teach the housing (12) is pivotally mounted on an upright

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weighted support stand, as recited. Claypool discloses in Figures 1-7 a heater comprising a weighted support stand that uprightly supports the heater housing comprising elements set forth in these claims. Therefore it would have been obvious to one skilled in art to include the support stand taught by Claypool and apply in the Albanes drying system for the purposes of allowing the housing to be angularly adjusted. With regards to claim 20, The Albanes device illustrates on Figure 1 the apertures (26) on the forwarding face (14) of housing (12) further including horizontal louvers (28) oriented within three rectangular oblong apertures (26). Each set of louvers (28) is pivotally mounted about parallel horizontal axes. Figure 1 further illustrates the dials to the right of each apertures (26) for pivoting the louvers (28) by rotating the dials.

Claims 9, 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albanes (U.S. Patent No. 5,377,424) in view of Hutton et al (U.S. Patent No. 5,825,974). Albanes discloses in Figure 1-5 a body drying system comprising elements as recited in these claims including a housing (12) having a forwarding face (14), a rearward face (16), a pair of side faces (22), a plurality of apertures (26) positioned on the forwarding face (14) of the housing (12), a blower (46) disposed within the housing (12). Figure 1 illustrates the apertures (26) on the forwarding face (14) of housing (12) further including horizontal louvers (28) oriented within three rectangular oblong apertures (26). Each set of louvers (28) is pivotally mounted about parallel horizontal axes. Figure 1 further illustrates the dials to the right of each apertures (26) for pivoting the louvers (28) by rotating the dials. The Albanes body drying system lacks the teaching of a switch means for sequentially activating a plurality of heaters, as recited. Hutton et al discloses an electrical heating apparatus comprising a fan heater and having at least electrical heating elements. Figure 5 illustrates a schematic diagram showing a variety of fan speeds by

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using a plurality of heating elements wired in series. When the switch (7) is in position 1, the motor (14) is effectively switched off and the heating apparatus function as a pure convective heater. When the switch is in position 2, the motor (14) is in parallel with element (60) and in series with elements (62, 64, 66). This provides the slowest fan speed. When the switch is in position 3, the motor (14) is in parallel with elements (60, 62) and in series with elements (64, 66) which provides a higher fan speed. When the switch is in position 4, the motor (14) is in parallel with elements (60, 62, 64) and in series with element (66) which provides a still higher fan speed. In the final position 5 of switch (7), the motor (14) is connected across the full mains supply to give the fastest speed. Therefore it would have been obvious to one skilled in art to apply the sophisticated switch taught by Hutton et al in the Albanes drying system as such would offer sequentially activating a select one of pluralities of heaters each time the switch means is activated. With regards to the microprocessor, which would be electrically connecting to the heater control switch, this piece of electrical circuit is well known in the art for controlling the operation of the heaters. Therefore it would have been obvious to one skilled in the art to utilize it in conjunction with the Hutton et al's switch as such would provide a longer life of the device as well as efficiency of its operation.

Claims 10, 18, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albanes (U.S. Patent No. 5,377,424), as modified above, and further in view of Marino (U.S. Patent No. 5,361,321). Albanes, as modified above, discloses in Figure 1-5 a body drying system comprising elements as recited in these claims but does not teach a gravity actuate safety switch. Marino discloses a portable electrical heater comprising a safety shutoff switch in the form of a switch (31) in the event that the heater unit tips forward. Therefore it would have been

obvious to one skilled in the art to install the safety shutoff switch taught by Marino and connect it to Albanes' body drying system as such would disabling power in the event the heating unit is overturned, thereby providing safety.

Claims 11 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albanes (U.S. Patent No. 5,377,424), as modified above, and further in view of Shao (U.S. Patent No 5,239,610). Albanes, as modified above, discloses in Figure 1-5 a body drying system comprising elements as recited in these claims but does not teach the forwarding face is convex. Shao discloses in Figures 1-9 a portable heating unit (21) comprising elements set forth in these claims including a cover (25 having a convex front section (27). Therefore it would have been obvious to one skilled in the art to apply the convex front section taught by Shao in the Albanes forwarding face (14) as such would project hot air upwardly, downwardly, and straight ahead.

Claims 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albanes (U.S. Patent No. 5,377,424) in view of Shao (U.S. Patent No 5,239,610). Albanes discloses in Figure 1-5 a body drying system comprising elements as recited in these claims including a housing (12) having a forwarding face (14), a rearward face (16), a pair of side faces (22), a plurality of apertures (26) positioned on the forwarding face (14) of the housing (12), a blower (46) disposed within the housing (12), and temperature control switch (58) positioned on the forwarding face (14). The temperature control switch is operatively coupled by lines (60) to the heating element (44) and is for varying heating intensity (column 4 lines 28-68, column 5 lines 1-2 and 21-26). Figure 1 illustrates the apertures (26) on the forwarding face (14) of housing (12) further including horizontal louvers (28) oriented within three rectangular oblong apertures (26). Each set of louvers (28) is pivotally mounted about parallel horizontal axes. Figure 1

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further illustrates the dials to the right of each apertures (26) for pivoting the louvers (28) by rotating the dials. The Albanes lacks the teaching of the forwarding face is convex. Shao discloses in Figures 1-9 a portable heating unit (21) comprising elements set forth in these claims including a cover (25 having a convex front section (27). Therefore it would have been obvious to one skilled in the art to apply the convex front section taught by Shao in the Albanes forwarding face (14) as such would project hot air upwardly, downwardly, and straight ahead.

Claims 13, 14, 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Albanes (U.S. Patent No. 5,377,424), as modified above, in view of Claypool (U.S. Patent No. Design 323,553). Albanes, as modified above, discloses in Figure 1-5 a body drying system comprising elements as recited in these claims but does not teach the housing (12) is pivotally mounted on an upright weighted support stand, as recited. Claypool discloses in Figures 1-7 a heater comprising a weighted support stand that uprightly supports the heater housing comprising elements set forth in these claims. Therefore it would have been obvious to one skilled in art to include the support stand taught by Claypool and apply in the Albanes drying system for the purposes of allowing the housing to be angularly adjusted.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

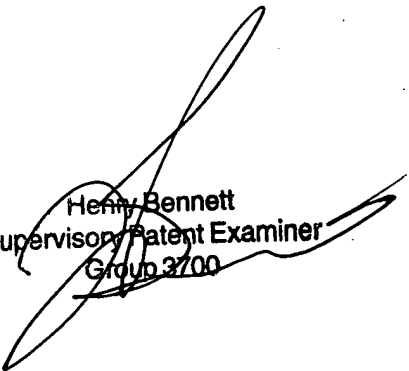
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Camtu T. Nguyen whose telephone number is 703-305-0537. The examiner can normally be reached on (M-F) 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry A. Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Camtu Nguyen  
December 9, 2004



Henry Bennett  
Supervisory Patent Examiner  
Group 3700